BOMBAY ACT No. XIV OF 1954.[1]

[THE BOMBAY NURSES, MIDWIVES AND HEALTH VISITORS ACT, 1954.]

[*23rd March 1954*]

Amended by Bom. 2 of 1955.

An Act to amend and consolidate the law relating to Nurses, Midwives and Health Visitors in the State of Bombay.

WHEREAS it is expedient to amend and consolidate the law relating to nurses, midwives and health visitors in the State of Bombay; It is hereby enacted as follows :—

PART I.

Preliminary.

Short title, extent, commencement and application.

1. (*1*) This Act may be called the Bombay Nurses, Midwives and Health Visitors Act, 1954.

(*2*) It shall extend to the whole of the State of Bombay.

(*3*) Parts, I, II, III, V, VI and VII of this Act shall come into force at once in the whole of the State of Bombay and shall apply to all persons referred to therein. Part IV shall come into force on such date and shall apply to such class of persons only in such areas as the State Government may by notification in the *Official Gazette* appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "affiliated institution" means an institution for the nursing of the sick, maternity or child welfare, which may be affiliated to the Council in accordance with the by-laws ;

(*b*) "by-law" means a by-law made by the Council under section 30 ;

(*c*) "Council" means the Bombay Nursing Council constituted under section 3 ;

(*d*) "institution" includes any association, which maintains or controls a nurses establishment ;

(*e*) "licensing authority" in the case of a municipal area means the municipal corporation or the municipality established for such area and in the case of any other area the district local board established for such area :

Provided that the State Government may by notification in the *Official Gazette* in respect of any area specify any other authority as the licensing authority for such area ;

(*f*) "list" means a list of nurses, midwives and health visitors prepared and kept under section 17 ;

(*g*) "nurse" includes a male nurse [2][and an auxiliary nurse and midwife] ;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1952, Part V, pages 98-99.

[2] These words were added by Bom. 2 of 1955, s. 3, Second Schedule.

(*h*) "nurses establishment" means any establishment whether carried on for gain or not, which provides for or is intended to provide the services of persons to act as nurses, midwives or health visitors to those requiring such services ;

(*i*) "prescribed" means prescribed by rules ;

(*j*) "register" means a register maintained under section 12 and the expressions "registered" and "registration" shall be construed accordingly ;

(*k*) "registered medical practitioner" means a person registered under the Bombay Medical Act, 1912, or registered or entered on the list under the Bombay Medical Practitioners' Act, 1938, or a person whose name is entered in Part A or Part B of the register of practitioners maintained under the Bombay Homoeopathic Act, 1951 ; Bom. VI of 1912. Bom. XXVI of 1938. Bom. XLV-III of 1951.

(*l*) "rule" means a rule made by the State Government under section 29.

PART II.

The Bombay Nursing Council.

Establishment, incorporation and constitution of Council.

3. (*1*) The State Government may, by notification in the *Official Gazette*, establish a Council to be called "the Bombay Nursing Council" for the purpose of carrying out the provisions of this Act. Such Council shall be a body corporate and have perpetual succession and a common seal and may, by the same name, sue and be sued.

(*2*) The Council shall consist of the following twenty-two members,—

(*a*) as *ex-officio* members,—

(*i*) the Surgeon-General with the Government of Bombay ;

(*ii*) the Director of Public Health for the Government of Bombay ;

(*iii*) the Superintendent of Nursing Services, Government of Bombay ;

(*b*) as elected members,—

(*i*) one by nurses, midwives and health visitors registered in the register under each of the following regions, namely :—

(*a*) Greater Bombay ;

(*b*) Northern Division ;

(*c*) Central Division ; and

(*d*) Southern Division ;

(*ii*) two persons to be elected by the heads of the affiliated institutions ;

(*iii*) five persons to be elected as follows :—

(*a*) two, by the matrons of the affiliated institutions which have declared in the prescribed manner their principal office to be situated in Greater Bombay ;

(*b*) three, by the matrons of the affiliated institutions which have declared in the prescribed manner their principal office to be situated elsewhere in the State of Bombay ;

(*iv*) two persons to be elected by the sister tutors of the affiliated institutions and the heads of Nursing Colleges recognised by the Council in this behalf ;

(*v*) one person to be elected by the Bombay Medical Council ;

(*vi*) one person to be elected by the Co-ordination Committee (by whatever name called) of the local branches in the State of Bombay of the Indian Medical Association ;

(*vii*) one person to be elected by the members of the Faculties of Nursing and, where there are no Faculties of Nursing, by the members of the Faculties of Medicine of the Universities established by law in the State of Bombay, which confer a degree in Nursing ;

(*c*) as nominated members, three persons to be nominated by the State Government.

(*3*) The President and Vice-President of the Council shall be elected from among the members of the Council.

(*4*) The election of the President and Vice-President shall, subject to the provisions of this Act, be held at such time and place and in such manner as may be prescribed by rules made in this behalf.

Appointment of members in default of election.

4. If any of the institutions referred to in section 3 does not, by such date as may be prescribed, elect a person to be a member of the Council, the State Government shall, by order in writing, appoint to the vacancy a person qualified for election thereto ; and the person so appointed shall be deemed to be a member of the Council as if he had been duly elected by the said institution.

Period of office of members.

5. (*1*) The members of the Council, other than the *ex-officio* members specified in clause (*a*) of sub-section (*2*) of section 3, shall hold office for a term of five years from the date of their election or nomination or until their successors have been duly elected or nominated whichever is longer and shall be eligible for re-election or re-nomination, as the case may be.

(*2*) Any such member may at any time resign his appointment by letter addressed to the President of the Council.

Vacancy.

6. When a vacancy occurs in the office of a member of the Council through death, resignation, removal or disability of such member or otherwise, previous to the expiry of the period of his office, the vacancy shall be filled in the manner prescribed. Any person elected or nominated to fill a casual vacancy shall, notwithstanding anything contained in section 5, hold office only so long as the member in whose place he is elected or nominated would have held office if the vacancy had not occurred.

Vacancy not to affect proceedings.

7. If a vacancy in the office of a member of the Council has occurred, the continuing members thereof shall act as if no vacancy had occurred, and no act or proceeding of the Council shall be deemed invalid merely by reason of a vacancy in the Council or of a defect in the election or nomination of a person acting as a member of the Council.

Disqualifications.

8. No person shall be a member of the Council—

(*a*) who has been sentenced by a criminal court for an offence involving moral turpitude and punishable with imprisonment for a term exceeding three months or to transportation, such sentence not having been subsequently reversed, quashed or remitted, unless he has by order, which the State Government is

hereby empowered to make in this behalf, been relieved from the disqualification arising on account of such sentence, or

(*b*) who is an undischarged insolvent, or

(*c*) who has been adjudicated by a competent court to be of unsound mind, or

(*d*) whose name has been removed from the register.

Disabilities from continuing as member.

9. (*1*) If any member, during the period for which he has been elected or nominated,—

(*a*) absents himself without excuse, sufficient in the opinion of the Council, from three consecutive ordinary meetings of the Council; or

(*b*) is absent out of India for a period exceeding eight consecutive months; or

(*c*) becomes subject to any of the disqualifications specified in section 8; or

(*d*) having been elected by the Bombay Medical Council, ceases to be a registered medical practitioner;

the President of the Council shall forthwith report the fact to the State Government, which shall thereupon, by an order in writing, declare his seat to be vacant.

(*2*) If any question arises whether a vacancy has occurred under sub-section (*1*), the orders of the State Government shall be final for the decision of such question.

Leave of absence to members.

10. The Council may permit any member to absent himself from the meetings of the Council for any period not exceeding six months.

Elections to be held by distributive system of voting.

11. All elections under this Act shall be made according to the distributive system of voting.

Explanation.—The distributive system of voting means a system of voting in which every voter shall be entitled to give as many votes as there are seats to be filled :

Provided that no voter shall give more than one vote to any one candidate :

Provided further that no voting paper shall be deemed to be valid unless the voter has recorded all the votes which he is entitled to give.

PART III.

Registration.

Maintenance of register.

12. The Council shall maintain a register of (*a*) nurses, (*b*) midwives, and (*c*) health visitors, consisting of four sections, one each for the following regions, namely,—

(1) Greater Bombay,

(2) Northern Division,

(3) Central Division,

(4) Southern Division,

in such form, containing such particulars and divided into such parts as may be prescribed.

Persons entitled to registration.

13. (*1*) Persons who have undergone such courses of training, have passed such examinations and who fulfil such other conditions as may be prescribed shall, on payment of the prescribed fee and on making an application in the prescribed form, be entitled to registration.

(*2*) Such person shall specify in the application the region in which he desires to be registered and shall not be entitled to be registered in more than one region :

Provided that if the person fails to specify the region in which he should be registered, the Council shall have the power to enter his name in such region as may be prescribed by by-laws.

Refusal of registration and removal and re-entry of names.

14. (*1*) Subject to such conditions as may be prescribed, the Council may, after giving an opportunity to the person concerned to be heard in his defence and after holding an inquiry in the prescribed manner, refuse to enter in the register the name of any person or may order the removal of the name of such person from the register.

(*2*) The order passed under sub-section (*1*) shall be in writing and shall be served on the person concerned in the prescribed manner.

(*3*) The Council may direct that the name of any person against whom an order under sub-section (*1*) has been passed shall be entered or re-entered in the register, as the case may be.

Appeal from order under section 14.

15. (*1*) Any person aggrieved by any order of the Council made under section 14 may, within three months from the date on which such order is served, appeal against such order to the State Government.

(*2*) The order of the State Government on any such appeal shall be final.

Renewal fee.

16. (*1*) Notwithstanding anything contained in section 13, the Council may direct that for every five years a renewal fee of such amount as may be approved by the State Government shall be paid by each person registered under the Act for the continuance of his name on the register.

(*2*) If the renewal fee is not paid before the date fixed by the Council, the Council shall remove the name of the defaulter from the register :

Provided that the name so removed may be re-entered in the register on payment of the renewal fee in such manner and subject to such conditions as the Council may by by-laws direct.

Maintenance of list of persons practising as nurses, midwives and health visitors.

17. (*1*) The Council shall prepare and keep a list of persons whose names are not entered in the register maintained under section 12 and who are practising as nurses, midwives and health visitors. The list shall be divided into such parts as may be determined by the Council.

(*2*) Every person not being qualified for registration under this Act, who, within the period of two years from the date on which this Part comes into force, proves to the satisfaction of the Council that he has been in regular practice as a nurse, midwife or health visitor and fulfils such other conditions as may be determined by the Council shall on payment of the prescribed fee be entitled to have his name entered in the list :

Provided that any person whose name has been removed from the register maintained under this Act or under any other law for the time being in force in any other part of India or from the register of any other country for infamous conduct in any professional respect shall not be entitled to have his name entered in the list.

(*3*) The provisions of sections 14 and 15 shall *mutatis mutandis* apply to this list.

PART IV.

Nurses, midwives and health visitors entitled to practise and control of licensing authorities.

Persons not registered or on the list not to practise as nurse, etc.

18. (*1*) No person other than a person registered under this Act or a person whose name is entered in the list shall practise or hold himself out, whether directly or by implication, as practising habitually or for personal gain as a nurse, midwife or health visitor.

(*2*) Any person who acts in contravention of the provisions of sub-section (*1*) shall, on conviction, be punished with fine which may extend to Rs. 100 for the first offence, to Rs. 200 for the second offence, and to Rs. 300 for any subsequent offence.

Conditions on practice in certain areas.

19. (*1*) Notwithstanding anything contained in section 18 a person whose name has been entered in the list shall not practise as a nurse, midwife or health visitor in an area within the limits of a municipal corporation or a municipal borough or an area notified under sub-section (*2*), unless he—

(*a*) has been in regular practice as a nurse, mid-wife or health visitor for a continuous period of five years prior to the date on which this section has come into force, or

(*b*) has been in regular practice as a nurse, mid-wife or health visitor for a continuous period of two years prior to the date on which this section has come into force and produces a certificate from an institution signed by the Matron, Medical Superintendent or other responsible officer of such institution that such person has received the training as a nurse, mid-wife or health visitor in a prescribed manner.

(*2*) The State Government may, after consultation with the local board of a district by a notification in the *Official Gazette*, direct that the provisions of sub-section (*1*) shall apply on such date as may be specified therein to any other area in the district, subject to such adaptations and modifications as it may consider suitable having regard to the local conditions of the area.

Licensing authority to exercise general supervision.

20. (*1*) Subject to the provisions of this Act and the rules and by-laws made in this behalf, every licensing authority shall exercise general supervision and control over the nurses, midwives and health visitors practising within the area under its jurisdiction.

(*2*) The licensing authority may authorise any of its officers to perform any of the duties and to exercise any of the powers conferred on it by this section and section 21.

Notice to licensing authority before commencement of practice.

21. (*1*) Every person registered under this Act or every person whose name has been entered in the list if he intends to continue to practise after the date on which this Part comes into force in any area or if either of such persons intends to practise in such area as a nurse, midwife or health visitor, he shall give notice in writing to the licensing authority and shall give a like notice to the said authority in the month of January every five years, thereafter during the period he continues to practise within the said area.

(*2*) Every such notice shall contain such particulars and shall be in such form as may be determined by the Council.

(*3*) Any person who fails to comply with the provisions of sub-sections (*1*) and (*2*) shall, on conviction, be punished with fine which may extend to Rs. 25 for the first offence, to Rs. 50 for the second offence and to Rs. 100 for any subsequent offence.

(*4*) Any person who knowingly or wilfully makes or causes or procures any other person to make any false statement in any notice under this section shall, on conviction, be punished with fine which may extend to Rs. 100 for the first offence, to Rs. 200 for the second offence and to Rs. 300 for any subsequent offence.

PART V.

Nurses Establishments.

Regulation of nurses' establishments.

22. (*1*) No person shall carry on any nurses establishment, except under a valid licence granted by the licensing authority and in accordance with the terms and conditions specified in such licence, which shall be such as may be approved by the Council.

(*2*) Any person who desires to carry on any nurses establishment shall apply to the licensing authority for a licence before such date and in such manner and in such form as may be prescribed. He shall along with the application pay to the licensing authority the prescribed fee, half of which shall be refunded to him if the licence is not granted.

(*3*) The licensing authority may before granting such licence impose such additional conditions as it may think fit for securing the proper conduct of the establishment.

(*4*) The licensing authority may, after giving an opportunity to the person concerned of being heard, refuse to grant any licence or revoke any licence already granted, if—

(*i*) the applicant or the holder of the licence is below 21 years or is in its opinion not a suitable person to hold such licence ; or

(*ii*) the premises of the establishment are not suitable ; or

(*iii*) any offence under this section has been committed in respect of the establishment.

(*5*) Any person aggrieved by any of the conditions imposed by the licensing authority or by the refusal or revocation of any licence may appeal within three months of such imposition, refusal or revocation to the State Government. The memorandum of appeal shall be accompanied by such fee as may be prescribed. The decision of the State Government on such appeal shall be final.

(*6*) The licensing authority may authorise any of its officers to perform any of the duties conferred on it by this section.

(*7*) Any officer duly authorised by the licensing authority in this behalf may at all reasonable times enter the premises specified in any licence or application for licence or any premises which are used, or which the officer has reasonable cause to believe are used, for the purpose of, or in connection with, the nurses establishment and inspect the premises and any records relating to such establishment as may be kept thereon.

(*8*) The Council may also exercise the powers of entry and inspection conferred by sub-section (*7*) through any of its officers authorised by it in this behalf. If the Council is of opinion that in any case the licence should be refused or revoked, it shall report the matter to the State Government. On receipt of such report, the State Government may after consultation with the licensing authority or after making such inquiry as it deems fit pass orders refusing or revoking the licence. Such orders shall be final.

(*9*) Any person who contravenes the provisions of sub-section (*1*) shall, on conviction, be punished with fine which may extend to Rs. 250 for the first offence and for any subsequent offence with fine which may extend to Rs. 500 or with simple imprisonment for a term which may extend to six months or with both.

(*10*) Any person who refuses any duly authorised officer of the licensing authority or any such officer of the Council to enter or inspect any premises or to inspect any records under sub-section (*7*) or (*8*), as the case may be, or obstructs such officer in the exercise of his aforesaid powers shall, on conviction, be punished with fine which may extend to Rs. 50 for the first offence and for any subsequent offence with fine which may extend to Rs. 100 or with simple imprisonment for a term which may extend to three months or with both.

(*11*) Any person who makes or causes to be made or knowingly allows to be made any entry in a record to be kept under this section, which he knows to be false in any material particular for any of the purposes of this Act or who makes, produces or furnishes, or knowingly allows to be made, produced or furnished any statement, record or information which he knows to be false in any material particular for the purpose of obtaining a licence under this section or for any other purposes of this Act shall, on conviction, be punished with fine which may extend to Rs. 250 for the first offence and for any subsequent offence with fine which may extend to Rs. 1,000 or with imprisonment for a term which may extend to six months or with both.

(*12*) Where a person committing an offence under this section is a company or other body corporate or an association of persons (whether incorporated or not), every person who at the time of the commission of the offence was a director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.